

Safety Devices in Long-Term Care Facilities

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50-5-226. Placement in assisted living facilities. (1) An assisted living facility may provide personal-care services to a resident who is 18 years of age or older and in need of the personal care for which the facility is licensed under **50-5-227**.

(2) An assisted living facility licensed as a category A facility under 50-5-227 may not admit or retain a category A resident unless each of the following conditions is met:

(a) **The resident may not require physical or chemical restraint or confinement in locked quarters, but may consent to the use of safety devices pursuant to Title 50, chapter 5, part 12.**

50-5-1201. Use of safety devices -- request and consent -- allowed individuals -- intent. (1) The following individuals may request the use of and provide informed consent for the use of certain safety devices aimed at ensuring the physical safety of the resident by reducing the risk of falls and injuries associated with a resident's medical symptom even if the resident cannot easily remove the device or the device restricts the resident's total freedom of movement:

(a) a resident;

(b) a family member of a resident who is unable to make decisions because the resident has a communication barrier or has been found by a physician to be medically incapable of granting informed consent, as provided in **50-5-1203**;

(c) a guardian, as defined in **72-1-103**; or

(d) a person granted the power of attorney for health care decisions.

(2) A concern for a resident's physical safety or a resident's fear of falling may provide the basis for a medical symptom. A safety device may not be used for the convenience of staff or for disciplinary purposes.

(3) This part is intended to provide residents and authorized or designated representatives with the authority to request and consent to the use of safety devices but is not intended to interfere with the right of licensed health care providers acting within their scope of practice to recommend and order treatments and services, including physical restraints, for residents in their care.

History: En. Sec. 1, Ch. 347, L. 2001.

50-5-1202. Definitions. As used in this part, the following definitions apply:

(1) **"Department"** means the department of public health and human services provided for in 2-15-2201.

(2) **"Long-term care facility"** means a licensed facility that provides skilled nursing care or intermediate nursing care or that is an assisted living facility, as defined in 50-5-101.

(3) **"Medical symptom"** means an indication of a physical or psychological condition or of a physical or psychological need expressed by the patient.

(4) **"Physician"** includes an advanced practice registered nurse to the extent permitted by federal law.

(5) **"Resident"** means a person who lives in a long-term care facility.

(6) (a) **"Safety devices"** means side rails, tray tables, seatbelts, and other similar devices.

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(b) The term does not include protective restraints as defined in **21 CFR 880.6760**.

History: En. Sec. 2, Ch. 347, L. 2001; amd. Sec. 6, Ch. 54, L. 2003.

50-5-1203. Procedures -- informed consent -- physician involvement. (1) Upon receiving a request for use of a safety device, a long-term care facility shall inform the requestor of the alternatives and risks associated with the use of the safety device. The long-term care facility shall provide the requested safety device to the resident upon receipt of:

- (a) a signed consent form authorizing its use and acknowledging receipt of specific information about available alternatives and risks; and
- (b) a written order from the attending physician that specifies the circumstances under and the duration for which the safety device may be used and the medical symptoms that the safety device is intended to address.

(2) The requirements of subsection (1) do not apply if a side rail or other device is used only as an assistive device and does not restrict the resident's movement from bed or chair.

History: En. Sec. 3, Ch. 347, L. 2001.

50-5-1204. Long-term care facility procedures. A long-term care facility that provides a safety device under 50-5-1203 shall:

- (1) document that the procedures outlined in **50-5-1203** have been followed;
- (2) monitor the use of the safety device in accordance with accepted standards of practice;
- (3) reevaluate the resident's need for the safety device, **no less than quarterly**, in consultation with the resident, the resident's family, and the attending physician.

History: En. Sec. 4, Ch. 347, L. 2001.

72-1-103. General definitions. Subject to additional definitions contained in the subsequent chapters that are applicable to specific chapters, parts, or sections and unless the context otherwise requires, in chapters 1 through 5, the following definitions apply:

(21) "**Guardian**" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment but excludes one who is merely a guardian ad litem.